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REVIEW & OUTLOOK

Get Real

In an era when Asians and others think that the worst things coming from the U.S. are culturally polluting TV shows, here's a bulletin: The American torts explosion has achieved lift off and is winging across the Pacific in their direction.

The most notorious projectile is the sad case of Philippine people vs. Ferdinand Marcos. U.S. juries and courts have awarded alleged victims of the late president's regime nearly \$2 billion—the largest personal injury award in history. Plaintiff's lawyer Robert Swift admits, however, that in 10 years of litigation his clients have yet to collect. Now, whatever the merits of their legal claim, the relatives of people who died have been reduced to props in a farce.

Last weekend the U.S. district court judge at the center of the case announced he's going after two Swiss banks holding an estimated \$475 million in Marcos family deposits and interest. The banks, naturally, are resisting. The Philippine government still has a freeze on Marcos assets world-wide, and Swiss courts have upheld the bank's position that it must respect the freeze.

So Manuel Real, the Los Angeles judge who flew to Hawaii to preside over continuing stages of the case, may make a grab for U.S. branch assets of Credit Suisse and Swiss Bankcorp. "I determine the ownership of these funds," Judge Real huffed at one point. "A Swiss court does not."

A U.S. judge auto-extending his jurisdiction from Los Angeles and Honolulu to Manila and then toward a Swiss bank vault is not the only troublesome aspect of this case. It suffers from myriad defects in the U.S. legal system.

Look at the way it replicated. In

1981, attorney Marvin Belli and his son filed claims against Marcos on behalf of two dozen clients. By 1992, when a class action human rights case against the Marcos estate went before Judge Real, the list of victims had swollen to more than 10,000 names. Few of the plaintiffs had to prove how they suffered under the Marcos regime. A special court officer appointed by Judge Real took a base group of some 130 victims, including a farmer father of six who was shot by soldiers while his pregnant wife looked on, put a price tag on the horror and kind of extrapolated from that.

The Philippines government has been fighting the U.S. action all along, claiming that if damages are due, then 65 million Filipinos, not just 10,059, deserve a share. There no reason to trust that if Manila ever gets its hands on all the Marcos fortunes any of it will reach people victimized by his regime.

At every stage of this affair, each time a court ruled in their favor, the plaintiffs and their lawyers have trotted out a noble line about how the case sends a strong message to dictators and human rights abusers everywhere. Could be. So far, however, the main message for bad guys is that if you ever visit the U.S. after you die, the courts there may claim jurisdiction over your affairs.

Somehow, that doesn't sound like much of a deterrent. In fact, being the sort of people they are, a lot of dictators might actually enjoy the thought of causing suffering even from beyond the grave, as their former victims waste the remaining good years of their lives in legal battles chiefly for the benefit of attorneys.